

United States Bankruptcy Court
District of Oregon

Szanto,
Plaintiff

Szanto,
Defendant

Adv. Proc. No. 16-03114-pcm

CERTIFICATE OF NOTICE

District/off: 0979-3

User: Admin.
Form ID: pdf018

Page 1 of 1
Total Noticed: 2

Date Rcvd: Aug 31, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 02, 2017.
pla +Peter Szanto, POB 4614, Portland, OR 97208-4614

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
ust +E-mail/Text: ustpreion18.pl.ecf@usdoj.gov Sep 01 2017 01:19:31 US Trustee, Portland,
620 SW Main St #213, Portland, OR 97205-3026

TOTAL: 1

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

cd* +Peter Szanto, POB 4614, Portland, OR 97208-4614
cc* +Peter Szanto, POB 4614, Portland, OR 97208-4614

TOTALS: 0, * 2, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 02, 2017


Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 31, 2017 at the address(es) listed below:
NONE.

TOTAL: 0

Below is an Order of the Court.


PETER C. MCKITTRICK
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:
PETER SZANTO,

Debtor.

PETER SZANTO,

Plaintiff,

v.

EVYE SZANTO, VICTOR SZANTO, NICOLE
SZANTO, KIMBERLEY SZANTO, MARIETTE
SZANTO, ANTHONY SZANTO, AUSTIN
BELL, JOHN BARLOW, and BARBARA
SZANTO ALEXANDER,

Defendants.

Bankruptcy Case
No. 16-33185-pcm11

Adv. Proc. No. 16-3114-pcm

ORDER DENYING PLAINTIFF'S MOTION
TO PROHIBIT EVIDENTIARY ADMISSION
OF MR. HENDERSON'S TESTIMONY AND
EXHIBITS (DOC. 222)

Plaintiff has filed a Motion to Prohibit Evidentiary Admission of Mr. Henderson's Testimony and Exhibits (the Motion). Doc. No. 222. The Motion requests that this court exclude the declaration of Mr. Henderson and the exhibits attached thereto filed concurrently with defendants' Motion for Summary Judgment (Doc. 216).

Plaintiff objects that Mr. Henderson's declaration should be

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1 excluded because Mr. Henderson "did not participate as a witness to the
2 truth of the EXHIBITS proffered," Motion, p. 3, ln. 16-17, and the
3 declaration constitutes inadmissible hearsay. Id., p. 3, ln. 19.
4 Neither of plaintiff's objections is well taken.

5 The documents attached to Mr. Henderson's declaration consist of
6 excerpts of plaintiff's deposition taken by Mr. Henderson (Ex. 1); real
7 estate records filed in official county records (Ex. 2); court orders,
8 docket reports and documents docketed in this and other proceedings (Ex.
9 3, 4, 9-12); and discovery documents exchanged in this litigation (Ex.
10 5-8).

11 Fed. R. Civ. P. 56(c)(2) requires that evidence submitted in
12 support of a motion for summary judgment must be capable of submission
13 in a form that would be admissible if testified to at trial by the
14 declarant. The types of documents outlined above are readily verifiable
15 and routinely admitted.

16 Moreover, the declaration submitted states only that the copies
17 submitted are "true and correct" and does not testify as to their
18 contents. Because the documents either appear to have come from Mr.
19 Henderson's files or were retrieved by his office from public records,
20 Mr. Henderson is in a position to testify based on personal knowledge to
21 the fact that the copies submitted are true and correct. See Sitts v.
22 United States, 811 F.2d 736, 741-42 (2nd Cir. 1987) (Admitting for
23 purposes of summary judgment movant's attorney's affidavit because it
24 testified to a "procedural fact that was within the personal knowledge
25 of the attorney, supported by the pretrial discovery materials of record
26 in the case.").

For the reasons stated above and in the interest of justice and good cause appearing therefor,

IT IS HEREBY ORDERED that plaintiff's Motion is DENIED.

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Cc: Mr. Szanto
Mr. Henderson
UST